



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
CARVEL STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 88-2

September 16, 1988

Subject: Section 444 Election of the Internal Revenue Code

As a result of the Federal Omnibus Budget Reconciliation Act of 1987, Partnerships, S Corporations and Personal Service Corporations that, in general, are operating on a tax year other than the required tax year and wish to continue to do so for taxable years ending after 12/31/86 must make a Federal election under Section 444 of the Internal Revenue Code by timely filing Federal Form 8716.

Section 1901(7) of 30 Del. C. defines the "income year" of a Corporation as "... the taxable year for which the taxpayer computes its net income for purposes of the federal income tax." Since the "income year" as defined in Chapter 19 is based upon the income year for federal purposes, a properly filed election under Section 444 of the Internal Revenue Code will be recognized as a properly filed election for Delaware Corporate and Personal Income tax purposes.

The Federal regulations have also extended the due date for filing the income tax return for the taxable year beginning in 1987 to the later of the original due date or August 15, 1988, regardless of whether a Section 444 election is made.

Since Federal regulations provide for an extension of time for filing an income tax return as a result of a Section 444 election, the Division of Revenue will recognize the blanket extension for filing of the State return to a date which is the later of: (a) fifteen days beyond the Federal due date or (b) August 30, 1988.

Any Federal deductions of a Personal Service Corporation deferred on the Federal Corporate Income Tax Return to the following fiscal year as a result of the Section 444 election will be treated as a deferred deduction for State purposes.

Robert W. Chastant
Director of Revenue